Clause

Question 1. Do you support a national policy statement on urban development that aims to deliver quality urban environments and make room for growth? Why/Why not?

Position

Somewhat

Notes

I support a NPS-UD that makes room for growth by directing the removal of constraints that support the operation of markets. I support policies that will help to deliver a quality urban environment, providing these policies do not constrain the location of density or the conversion of land to floor space, i.e. the focus should be on areas where the market does not always have an incentive to perform. I support the general intent of the NPS-UD and have provided what I hope are helpful responses to the questions set out in the consultation document. This document provides context to my answers, and includes my professional views on the state of planning in New Zealand, its relationship to markets, and how this association has influenced the growth of our cities and standards of living for New Zealanders Relationship between Urban Planning and Urban Economics 4. Urban planning has an immeasurable but significant impact on the ground in cities throughout the world. The industry frequently uses qualitative language to describe idealistic objectives, words like “sustainable,” “liveable,” and “resilient” – often with no link to measurable outcomes or a meaningful attempt to spell out what the words mean. 5. The National Policy Statement on Urban Development Capacity (“NPS-UDC”) was introduced recognising that the local authorities managing our major cities need to actively consider urban economics – a quantitative science based on actual theories, models and empirical evidence. I agree that this has been lacking in many of the planning processes I have observed The hard truth for planners and planning systems the world over is that markets provide the indispensable mechanism for the development of cities. Administration and oversight without clear purpose and direction will in my experience often do little but create inefficiencies and waste. One example of how this can come about is when a planning document simply states that everything is important and does not prioritise the many hard decisions and trade-offs that need to be made. I am not familiar with any district plan in New Zealand that even acknowledges the existence of markets and land values. My experience is that planning documents and rules frequently intervene in markets using regulation, with little or no understanding or analysis of the likely consequences of using such tools. This intervention often has irreversible effects on the natural environment through generating the phenomenon described in popular media as ‘sprawl’

Clause

Are there other tools under the RMA, other legislation or non-statutory tools that would be more effective in achieving a quality urban environment and making room for growth?

Notes

The most effective tool for making room for growth would be to direct local authorities to remove regulatory constraints, such as zone methods that prescribe maximum density and floor space, and urban growth boundaries, all tools that urban economists have proven globally will drive up the price of housing, and artificially influence the distribution of density and floor space consumption per capita beyond that which the market would usually provide for based on demand. I also recognise that there is a mechanism in the RMA that could be used by the Minister to remove notification requirements more broadly for residential development in New Zealand, by prescribing in regulations excluded activities in accordance with sections 360H(1)(a)(i) and 360H(1)(a)(iii) of the RMA. Notification assessments are time consuming and introduce significant risk for developers, but also significant uncertainty for communities. Prescribed notification is more effective and certain for all than the system of assessment that the RMA requires. However these sections are proposed to be deleted under the current Resource Management Amendment Bill, which I consider a grave error and I will be submitting on separately. I emailed the Minister in early September with a suggestion on the form that these regulations could take, modelled on the South Australian three tier system
of notification, which I am familiar with having worked there early in my career. I have uploaded these draft regulations for your perusal. I have attached a draft set of regulations to show you some examples on what you could prescribe – see Schedule 1. I have adapted these from similar regulations that were created in South Australian in 2008. Exercising your powers in this regard would – from my experience – immediately result in the following benefits: 1. Streamlined consents for homes and subdivision across the country; 2. Reduced consenting costs for applicants, and trickle down lower costs of home ownership; 3. Councils will become less risk adverse, as they are mainly concerned at present with getting the “notification assessment” wrong, leading to lengthy report writing, particularly by more junior staff who are less experienced in assessing adverse effects; 4. “Bridging the gap” to quickly fix drafting issues with some local government district plans – for example, the Auckland Unitary Plan prescribing that housing in the Terrace Housing and Apartment Building (THAB) is to be non-notified (in order to encourage development), but when “bundled” with other ancillary activities such as carparking or earthworks, the entire application then becomes subject to notification tests again, despite the form and location of the building not being any different; 5. “A quick no” – i.e. instead of subjecting a developer to the rigours and additional cost of notification when the Council has already indicated that they are looking to recommend refusal for the application, prescribed activities would allow the Council to jump straight to making a decision. The adverse effects of the proposal would still be considered, so in this regard the community function of the Council is still being fulfilled, and potentially quicker and with less emotional wait time for interested parties; 6. Most Councils would be able to go back to using simple checklists for their assessments, rather than lengthy notification reports. Most applications – particularly for residential development – end up non-notified already, but this would cut a massive component of the process away; 7. Applications can still be notified if there are special circumstances (as a prescribed activity does not override these). In addition to those recommendations made in my answers to the consultation document questions, I recommend that the NPS-UD should include policies that provide for the following: a. A requirement for consent authorities to undertake cost benefit analysis of new and existing district plan objectives, policies and rules that are not otherwise enabling of development. The Ministry for the Environment (MfE) should establish a mandatory framework for these assessments to be undertaken in consultation with suitably qualified urban economists, with the objective being to ensure restrictions on development are properly understood and justified other than on the basis of local aesthetic preferences. b. Provide greater control to markets to provide for housing in locations deemed suitable based on changing land prices and infrastructure provision

Clause
Do you support the approach used to determine which local authorities are categorised as major urban centres? Why/why not?

Position
Somewhat

Notes
People and job providers are best equipped to determine where they should locate across New Zealand. While I support immediate intervention in our largest and fastest growing urban environments, I would also support policies that more broadly direct the removal of barriers to growth in other areas of the country, such as in those locations identified in Table 3.

Clause
Can you suggest any alternative approaches for targeting the policies in the NPS-UD?

Notes
N/A

Clause
Do you support the approach of only requiring major urban centres to undertake an FDS? Would there be benefits of requiring other local authorities to undertake a strategic planning process?

Notes
Preferably all urban centres in New Zealand should be directed to vary or remove planning controls that affect the operation of
the housing market, without clear environmental benefits linked to s6 RMA considerations.

**Clause**
What impact will the proposed timing of the FDS have on statutory and other planning processes? In what ways could the timing be improved?

**Notes**
Timing of release of land for development needs to be linked to infrastructure provision. Infrastructure provision should be the key focus for planners in our cities, particularly efforts to increase the speed of commuting, which will in turn increase the spatial extent of the labour market.

<table>
<thead>
<tr>
<th>Clause</th>
<th>Question 4. Do you support the proposed approach of the NPS-UD providing national level direction about the features of a quality urban environment? Why/why not?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Position</strong></td>
<td>Somewhat</td>
</tr>
<tr>
<td><strong>Notes</strong></td>
<td>Something which residents in existing urban communities often seem to forget when new development takes place in their neighbourhood is that where they live was once a development itself, which had an effect in terms of changing the landscape, increasing traffic on roads, and increasing demand for infrastructure. I support the NPS-UD providing national level direction about the features of a quality urban environment where this identifies the benefits that future urban development have on improving the quality of our cities, not only physically, but socially and economically. The policies as drafted however seem to only allow local authorities to consider these aspects at time of making a decision on a resource consent, rather than when determining notification (i.e. through reference to ‘positive effects’ which cannot be considered under ss95A &amp; B). Policies that direct consent authorities to consider district plan methods that support a high degree of change are encouraged, as this will assist decision makers to assess applications in the context of the future environment, rather than that which already exists.</td>
</tr>
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</table>

**Clause**
Do you support the features of a quality urban environment stated in draft objective O2? Why/why not? (see discussion document, page 26)

**Notes**
Yes, I highly support the features that have been identified. I see that the effect of part (a) in particular would require local authorities to allow people to make decisions on housing choice and location according to their own needs, not based on how planners and urban designers consider that people should live. However I think the wording of the objective needs to be revised to make it clearer that (a) through (d) is framing what a quality urban environment should entail, and the term ‘quality’ is not specifically in reference to built form quality (which I can see some local authorities reading this as).

**Clause**
What impact do you think the draft objectives O2-O3 and policies P2A-P2B will have on decision-making (see discussion document, page 26)?

**Notes**
My thoughts on Objective 2 are shared in my response to the previous question. My concern with Objective 3 is that it still seems to infer that planners will ultimately decide where to enable development, and where not to enable development. Development is naturally enabled through access to labour markets and access to infrastructure which lowers the time and cost of commuting. These should be the key focus areas for local authorities, rather than zoning specifically where development should locate, particularly if not based on quantified urban economic reasoning. I suggest that the words ‘in locations and’ from this objective. I also recommend that the words ‘as framed in Objective 2’ are added after the words ‘quality urban environments’ to again remove the threat that this will be interpreted as something that it is not when being implemented by local authorities.

**Clause**
Question 5. Do you support the inclusion of proposals to clarify that amenity values are diverse and change over time? Why/why not?

**Position** | Yes |
| **Notes** | I am highly supportive of this part of the proposed NPS-UD. I highly encourage the technical group to consider extending the proposal to also acknowledge that built character is diverse and changes over time. The threat of not doing so is that inner city suburbs that are protected at low densities due to ‘special character’ (i.e. Auckland) will be treated differently, noting that amenity and character are not always two in the same. I have observed in New Zealand that there is an almost ideological opposition to tall buildings because of the assumption that their existence will generate adverse effects. My experience is that in most cases the objection is based on the following fears: a. Fear from existing residents that new residents might derive a view or amenity advantage that may lower the value of the existing residents’ properties; b. Fear from existing residents that they may lose a view or outlook, even if that view or outlook is based on looking across other people’s land; and/or c. A moral principle that existing residents invested based on what they understood at the time, and that it would be wrong to change the system while they still wish to enjoy things the way they are. 27. Yes, tall buildings can cast shadows and often (where car parks are required) generate traffic congestion, and their proximity to other buildings can result in overlooking. But they can also... |
generate significant positive effects in terms of housing supply, and providing for the efficient use of existing urban land resources. They also offer the best means of accommodating populations where there are services, transport options, and amenities that do not require mass use of private motor vehicles. 28. The NPS-UD consultation paper acknowledges that we are often sacrificing the future amenity values of many new occupants over those of the few already living in the area. The final version of the NPS-UD must include policies that recognise that current urban height limits are often arbitrary, are resulting in an under-development of land, and should in most cases be removed unless proven necessary under cost benefit analysis.

Historic Heritage vs Special Character 37. There are quantifiable economic and cultural justifications for preserving high-quality historic buildings against market forces, and I would not support a final NPS-UD that directs liberal change to district plan historic heritage rules. However, the same protections should not be afforded to areas with “special character”, particularly where these areas occupy significant high value land resources proximate to jobs. While I am only familiar with the Auckland context in this regard, I presume there are similar “special character” controls in other major New Zealand cities. This is in my opinion a questionably justified form of control that promotes an aesthetic preference, in the absence of actual historic heritage justification to protect individual buildings, leading to unaccounted for and unacknowledged urban form costs (displaced and less efficient settlement and travel patterns). 38. I consider that this is an example (there are many) of how the maintenance and enhancement of amenity values in s.7 of the RMA gets substantially more recognition in plan making than the other matters in s.7, and many practical aspects of s.6 and s.5. I urge that the NPS-UD includes consideration of how the creation of new amenity values (a form of enhancement based on achieving a specific policy vision) could be better promoted where substantial urban growth or change is expected Markets produce a great variety of designs. Competition provides for innovation in technology and design. Planning rules however often attempt to provide for uniformity, which ultimately hampers choice being provided to consumers. Why is it that side yard setbacks are required in most residential zones, whereas some cities in Australia allow new homes to be constructed abutting boundaries up to a certain length? The perception of what is offensive to private amenity differs throughout the world. 40. I would strongly support policies in the final NPS-UD that direct local authorities to prioritise plan policies on maintenance and enhancement of public amenity, as opposed to existing private amenity, noting that the latter changes over time and tends to prioritise the status quo.

Clause
Do you think these proposals will help to address the use of amenity to protect the status quo?

Notes
Yes, I would encourage the independent technical group to also consider ways in which we can address the use of character to protect the status quo. Character values are also diverse and change over time, noting that an eccentric mix of character in these areas should not be considered a negative externally. I have observed in New Zealand that there is an almost ideological opposition to tall buildings because of the assumption that their existence will generate adverse effects. My experience is that in most cases the objection is based on the following fears: a. Fear from existing residents that new residents might derive a view or amenity advantage that may lower the value of the existing residents’ properties; b. Fear from existing residents that they may lose a view or outlook, even if that view or outlook is based on looking across other people’s land; and/or c. A moral principle that existing residents invested based on what they understood at the time, and that it would be wrong to change the system while they still wish to enjoy things the way they are. 27. Yes, tall buildings can cast shadows and often (when car parks are required) generate traffic congestion, and their proximity to other buildings can result in overlooking. But they can also generate significant positive effects in terms of housing supply, and providing for the efficient use of existing urban land resources. They also offer the best means of accommodating populations where there are services, transport options, and amenities that do not require mass use of private motor vehicles. 28. The NPS-UD consultation paper acknowledges that we are often sacrificing the future amenity values of many new occupants over those of the few already living in the area. The final version of the NPS-UD must include policies that recognise that current urban height limits are often arbitrary, are resulting in an under-development of land, and should in most cases be removed unless proven necessary under cost benefit analysis.

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Clause
Can you identify any negative consequences that might result from the proposed objective and policies on amenity?

Notes
Unfortunately these objectives and policies are high level and are likely to only influence resource management decision making, rather than whether a specific proposal requires notification or not. While I understand that there are separate RMA workstreams looking at notification and other elements of the Act, these are likely to continue to hamper the speed and
progress at which change will be enabled in our cities. Historic Heritage vs Special Character. 37. There are quantifiable economic and cultural justifications for preserving high-quality historic buildings against market forces, and I would not support a final NPS-UD that directs liberal change to district plan historic heritage rules. However, the same protections should not be afforded to areas with “special character”, particularly where these areas occupy significant high value land resources proximate to jobs. While I am only familiar with the Auckland context in this regard, I presume there are similar “special character” controls in other major New Zealand cities. This is in my opinion a questionable justified form of control that promotes an aesthetic preference, in the absence of actual historic heritage justification to protect individual buildings, leading to unaccounted for and unacknowledged urban form costs (displaced and less efficient settlement and travel patterns).

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**Clause**
Can you suggest alternative ways to address urban amenity through a national policy statement?

**Notes**
N/A

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**Clause**
Question 6. Do you support the addition of direction to provide development capacity that is both feasible and likely to be taken up? Will this result in development opportunities that more accurately reflect demand? Why/why not? (see questions A1 - A5 at the end of the form for more questions on policies for Housing and Business Development Capacity Assessments)

**Position**
Somewhat

**Notes**
Per my expanded comments in the attachment, urban land pricing needs to be used as the key indicator for where development is feasible and likely to be taken up. For example, with regulatory constraints being lifted from high value areas of the Isthmus and CBD in Auckland - e.g. removal of rules that have the effect of putting a cap on land to floor space conversion - urban economic theory would suggest that we’re likely to see a significant increase in feasible development capacity in these areas, which are already supported by good quality infrastructure. The priority should be providing uncapped development capacity in existing serviced urban areas, and then working over the medium to long term on supporting infrastructure provision to periphery areas where new land can be released. I have strong concerns that we will continue to see urban land allocation and capacity based on design, rather than on markets, and this needs to be discouraged through these proposed objectives and policies. The words ‘market’ or ‘land pricing’ are not used in these objectives and policies, and it would be terrible for these quantitative measures to be overlooked when ‘designating’ development capacity, which we oft do through zones, albeit in the wrong places, and then question why developers are not building to the limits they can, and trying to push limits in other areas. In advanced economies like New Zealand, the informal housing sector is prevalent through the form of illegal conversions or additions to new or existing homes. My experience in Auckland is that there are likely thousands of homes across the city that house illegal second units that cannot comply with land use rules. The people living in these units often have no choice due to their financial situation, but suffer consequences such as being subject to non-formal tenancy agreements, and being unable to secure insurance. Development contributions are not being paid by the developers who construct these units. The growth of the informal sector in both developed and undeveloped countries has the same root cause: poorly conceived land use rules that do not take into account the income of poor households. Despite the potential legal consequence, the people living in these units often have a higher standard of living than the alternative, which could be poor quality rental homes, old state housing stock, or worse, homelessness. However, these units are not be legitimised because plan standards will often mandate a requirement for car parking – even if the occupants cannot afford a car – and private open space, despite their being abundant public open space throughout most New Zealand cities. Planners and plan-makers across the country will decry the high cost of housing, but will at the same time decry the relaxation of internal amenity standards that would ultimately make housing more affordable. We want to provide for more housing without accepting that the market is best placed to provide it, in the form and location that is demanded by consumers. The poor and low-income earners should be entitled to make the trade-off that they desire between floor space consumption and location.

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**Clause**
Question 7. Do you support proposals requiring objectives, policies, rules, and assessment criteria to enable the development anticipated by the zone description? Why/why not?

**Position**
Somewhat

**Notes**
The RMA does not require local authorities to zone land for specific activities or uses, and through s.32 leaves the door open to a wide array of financial and market-based instruments, many non-regulatory and often more agile. However insofar as the RMA applies at a district level, plans have to date continued with the status quo that is known best - the use of rules and methods
from plans of old that are often arbitrary and certainly not complimentary to the functioning of land markets. The National Planning Standards have unfortunately now entrenched the use of zoning as the key land use designation tool in New Zealand. So while I personally disagree with the use of zoning as our key determinant in what land uses go where, I have to accept that this is now fairly entrenched practice. So in saying that, yes, if there is a zone that provides for, say, the construction of apartment buildings or mixed-use buildings, the zone methods should broadly enable these forms of development. In addition to those recommendations made in my answers to the consultation document questions, I recommend that the NPS-UD should include policies that provide for the following: Direct that plan methods that impose obvious, indirect or hidden control of floor space are removed. Markets and land pricing will ultimately dictate the ultimate conversion of land to floor space, and provide for the housing needed in our cities. This does not need to lend itself to the complete removal of a need for resource consent, merely the adoption of rules that provide for increased flexibility and less prescription as to specific design outcomes. For example, height in relation to boundary standards could be replaced with a setback standard, and/or a requirement for windows above a certain height to not face boundaries or to be screened. This could be provided through assessment criteria rather than standards. The NPS-UD could be prescriptive as to the alternatives that could be used, or could allow each local authority to determine the methods they employ to provide for unlimited floor space, while managing negative externalities.

**Clause**
Do you think requiring zone descriptions in district plans will be useful in planning documents for articulating what outcomes communities can expect for their urban environment? Why/why not?

**Notes**
Providing these zone descriptions are backed up by appropriate plan methods, then yes, these may be useful to provide context when making consent decisions.

**Clause**
Do you think that amenity values should be articulated in this zone description? Why/why not?

**Notes**
No. Amenity values change over time, and the market is objectively best placed to determine what level of amenity a particular suburb will take on over time, per land value. So unless it is simple recognition that this will be the case - i.e. 'it is expected that amenity values in this zone will change over time and not remain static' - then I strongly recommend that current or future amenity values are not prescribed through zone description. The purpose of the NPS-UD is to improve the planning system's responsiveness to the market and to land pricing, not to add another potential barrier.

**Clause**
Question 8. Do you support policies to enable intensification in the locations where its benefits can best be achieved? Why/why not? (for more detail on the timing for these policies see discussion document, page 53)

**Position**
Somewhat

**Notes**
There is no need to enable intensification if you simply remove any disincentive for it to occur in accordance with market forces. I note that P6A uses the words 'high-density development' but doesn't define what this means - you can have tall buildings that are not high-density (i.e. number of persons per m2 could be quite low in a high-rise luxury apartment building) and therefore the focus should simply be on removing any disincentive to convert land area to floor space as the price of land increases - not just for residential, as the words 'high-density' conveys, but for any land use types. Land value is highest in areas of high job concentration, and/or good accessibility to fast road or rail networks, and points (a) through (d) of P6A do not even need to be mentioned as you will generally not see intensification away from these areas. If cities are not constrained through artificially imposed restrictions on urban growth, and existing urban areas are allowed to intensify as land values increase, then the correct market balance of low density housing and high density housing should apportion correctly, with little need for planning intervention. The NPS-UD should encourage a shift from plan makers dividing up where density should go. I have observed in New Zealand that there is an almost ideological opposition to tall buildings because of the assumption that their existence will generate adverse effects. My experience is that in most cases the objection is based on the following fears: a. Fear from existing residents that new residents might derive a view or amenity advantage that may lower the value of the existing residents' properties; b. Fear from existing residents that they may lose a view or outlook, even if that view or outlook is based on looking across other people's land; and/or c. A moral principle that existing residents invested based on what they understood at the time, and that it would be wrong to change the system while they still wish to enjoy things the way they are. 27. Yes, tall buildings can cast shadows and often (where car parks are required) generate traffic congestion, and their proximity to other buildings can result in overlooking. But they can also generate significant positive effects in terms of housing supply, and providing for the efficient use of existing urban land resources. They also offer the best means of accommodating populations where there are services, transport options, and amenities that do not require mass use of private motor vehicles. 28. The NPS-UD consultation paper acknowledges that we are often sacrificing the future amenity values of many new occupants over those of the few already living in the area. The final version of the NPS-UD must include policies that recognise that current urban height limits are often arbitrary, are resulting in an under-development of land, and should in most cases be removed unless proven necessary under cost benefit analysis. Historic Heritage vs Special Character. 37. There are quantifiable economic and cultural justifications for preserving high-quality historic buildings against market forces, and I would not support a final NPS-UD that directs liberal change to district plan historic heritage rules. However, the same protections should not be afforded to areas with "special character", particularly where these areas occupy significant high value land resources proximate to jobs. While I am only familiar with the Auckland context in this regard, I presume there are similar "special character" controls in other major New Zealand cities. This is in my opinion a unquestionably justified form of control that promotes an aesthetic preference, in the absence of actual historic heritage justification to protect individual buildings, leading to unaccounted for and unacknowledged urban form costs (displaced and less efficient settlement and travel patterns).
38. I consider that this is an example (there are many) of how the maintenance and enhancement of amenity values in s.7 of the RMA gets substantially more recognition in plan making than the other matters in s.7, and many practical aspects of s.6 and s.5. I urge that the NPS-UD includes consideration of how the creation of new amenity values (a form of enhancement based on achieving a specific policy vision) could be better promoted where substantial urban growth or change is expected. While it may seem like a desirable objective to require all homes to have a minimum standard of living, ultimately if the poor cannot afford it, they will simply end up in worse accommodation than what could be provided for by the market legally if these restrictions did not exist. Planners ultimately lack the information that would enable them to make informed decisions about the difficult trade-offs that people need to make between location and land consumption, and generally should not have the authority to make these types of decisions. 47. I support policies in the NPS-UD that will constrain local authorities in their ability to impose rules and standards controlling the design of homes, their private open space, or other facets of internal amenity over and above the Building Act and related Regulations, in an effort to open up opportunities for alternative affordable housing at a range of price points.

**Clause**
What impact will these policies have on achieving higher densities in urban environments?

**Notes**
As per my answer to the previous question, higher densities will be achieved based on land value alone, not based on any prescription as to density in a plan. Directing authorities to remove any disincentives to achieving higher densities should be sufficient to achieve the outcomes suggested by these policies. While it may seem like a desirable objective to require all homes to have a minimum standard of living, ultimately if the poor cannot afford it, they will simply end up in worse accommodation than what could be provided for by the market legally if these restrictions did not exist. Planners ultimately lack the information that would enable them to make informed decisions about the difficult trade-offs that people need to make between location and land consumption, and generally should not have the authority to make these types of decisions. 47. I support policies in the NPS-UD that will constrain local authorities in their ability to impose rules and standards controlling the design of homes, their private open space, or other facets of internal amenity over and above the Building Act and related Regulations, in an effort to open up opportunities for alternative affordable housing at a range of price points.

**Clause**
What option/s do you prefer for prescribing locations for intensification in major urban centres? Why?

**Notes**
I do not support either approach, as they give plan makers the power to decide where density should go, rather than allowing the market to decide based on land value and proximity to jobs. I would prefer to see the removal of any density disincentives from residential, mixed-use and centre zones, or a requirement for plan makers to provide for intensification in locations where land pricing suggests that it would be a more sustainable use of that land as a resource than the level of development that is currently provided for. The latter would need to be determined together with experienced urban economists. I note that neither option requires high density development to be provided for within the centres themselves, which is a disappointing omission. If my suggested alternatives are unpalatable to the decision makers on the NPS-UD, my choice would depend on the interaction between these options, and the proposed P6D. 1. Option 1 could work well with P6D, with the latter providing decision makers with more discretion to approved development on sites potentially at a further distance than that designated in the prescriptive version of P6C. This is however on the basis of P6D applying permanently, not just until the initial rezoning exercise has taken place. Decision making would however still be very drawn out, with decision makers needing to consider a policy versus what may be a quite stringent activity status (think Single House Zone in Auckland, where more than one dwelling is a non-complying activity). 2. If P6D only applies until initial rezoning has taken place, I would instead support Option 2, as I am concerned that Option 1 without P6D would see some plan makers enable density in a lesser catchment area, with no discretion under P6D to consider suitability of land beyond that area where market changes make such sites suitable for increased floor space. However this option will not provide for market agility, noting that over time, new frequent public transport stops will be built, centre zones will increase in size, and the changing dynamics of real estate pricing and markets will make intensification desirable in some locations but not others, but the zoning changes are unlikely to be fast enough to respond. I also see some flaws in the wording of the prescriptive version of policy P6C, e.g. what if there are existing industrial activities within 800m of a train station, will these then need to be rezoned for residential? This would be a perverse market intervention, and could unintentionally affect jobs and labour market distribution. Also, what does 'where evidence demonstrates intensification should not be enabled' mean? This seems very subjective, and I can see some plan makers avoiding zoning select areas under a political guise that there is 'amenity' or 'character' evidence that these areas should not be intensified. There needs to be some objective, quantifiable metric associated with this 'evidence'. Finally, what does 'frequent public transport' mean? Could this mean that when a faster bus service is introduced to an area, the plan makers must revisit the zones along that route? What about when a bus service is cancelled or scaled back in frequency, could plan makers then reintroduce barriers to intensification along those routes? All of these uncertainties and moving parts demonstrate why it is important to draft policies that provide for significant district plan agility, rather than prescription. This will also help to depoliticise the process at a local level, in the national interest, and remove uncertainty around application. Note that a better measure of intensification would be floor space, rather than density. You can have high floor space, but low density (think the exclusive apartment towers in Manhattan), or you can have low floor space, but high density (think boarding houses and informal settlements in some countries). Ultimately it more desirable in the long term to promote an increase in average floor space consumption per person (albeit not to mandate it).

**Clause**
If a prescriptive requirement is used, how should the density requirement be stated? Please provide a suggestion below (for example, 80 dwellings per hectare, or a minimum floor area per hectare).

**Notes**
I do not support minimums being used, as you run the risk of land being up-zoned in low value areas due to the prescription involved, and then no development then taking place at all if it is required to meet a minimum threshold of dwelling per hectare, or floor area per hectare. This could result no development at all, and consequently less realised development capacity. Noting the concerns I have raised over density being the benchmark as opposed to floor space, I would support a definition along the lines of 'high intensification is considered to be provided for where a zone includes no controls that have the effect of limiting the number of dwellings per hectare, and/or overall floor space'. The final definition needs to be worded carefully - I include examples in my supporting statement of how height, height in relation to boundary, and building coverage controls all have the consequence of creating a hidden cap on floor space. Plan makers may remove more obvious floor space controls, but keep others. Note that a definition such as that recommended above should be used for Options 1 and 2, not just Option 2.

**Clause**
What impact will directly inserting the policy to support intensification in particular locations through consenting decisions have?

**Notes**
See my answer above in relation to preference for Option 1 or 2. The policy will theoretically contribute to decision making, but is likely to be of little support where in conflict with a non-complying activity and the need to pass the s104D gateway test, or at time of determining whether an application should be notified (most developers would avoid sites where there is little certainty over whether an application is likely to be non-notified due to the high costs involved).

**Clause**
Question 9. Do you support inclusion of a policy providing for plan changes for out of sequence greenfield development and/or greenfield development in locations not currently identified for development?

**Position**
Yes

**Notes**
I support the policy as drafted, with the exceptions discussed in my next answer. I acknowledge that there may be other factors to consider as part of the some of these recommendations, and final solutions would require detailed investigation. For example: a. Some areas of cities may have proven infrastructural constraints that would otherwise constrain new development. These constraints must be able to be quantified objectively. Developers must be given an opportunity to contribute to or remedy any identified infrastructural deficit in exchange for being able to develop floor space

**Clause**
How could the example policy better enable quality urban development in greenfield areas (see discussion document, page 37)?

**Notes**
My suggestions below: - The words 'quality urban environment' in (a) are hard to define and will be different to all. Are these words intended to be defined by the criteria listed in proposed Q2? If so, this needs to be made clear. - The 'no adverse effect' bar in (b) is very high, and I suggest that 'avoid, remedy or mitigate' would be more appropriate. - Delete the word 'appropriate' from (c) as this could have variable meaning depending on the decision maker. It would be hard to objectively qualify.

**Clause**
Are the criteria sufficiently robust to manage environmental effects to ensure a quality urban environment, while providing for this type of development? (see example policy in discussion document, page 37)

**Notes**
Yes.

**Clause**
To what extent should developers be required to meet the costs of development, including the costs of infrastructure and wider impacts on network infrastructure, and environmental and social costs (recognising that these are likely to be passed on to future homeowners/beneficiaries of the development)? What impacts will this have on the uptake of development opportunities?

**Notes**
Localised infrastructure should be funded by developers if it principally contributes to the success of the specific development. Infrastructure that benefits existing residents, businesses and potentially rural activities should be funded by the local authority, particularly where the infrastructure is identified in a long-term plan. If the infrastructure is identified in a long-term, but the funding stream is not yet available (e.g. has not yet been budgeted for), developers may like to make an upfront contribution, that is then reimbursed by the local authority at current market rates plus interest once said funding is available.

**Clause**
What improvements could be made to this policy to make development more responsive to demand in suitable locations beyond areas already identified for urban development?

**Notes**
See earlier suggestions. The policy should be as objective and quantifiable as possible to ensure that plan makers have little discretion but to accept plan change proposals were the criteria are met.
### Clause
**Question 10. Do you support limiting the ability for local authorities in major urban centres to regulate the number of car parks required for development? Why/why not?**

**Position**  
Yes

**Notes**  
Private parking for most activities should typically be left to markets to determine. Mandated car parking minimums increase the cost of housing, and reduce urban mobility for those who may not be able to afford to live in a centre or near public transport, but also not necessarily be able to afford a house elsewhere that has a parking space (which would result per Option 3). Mandated parking also affects job providers who are effectively required to pay for parking spaces as part of a building lease, when they may not require parking as part of their business function or activity. While it may seem like a desirable objective to require all homes to have a minimum standard of living, ultimately if the poor cannot afford it, they will simply end up in worse accommodation than what could be provided for by the market legally if these restrictions did not exist. Planners ultimately lack the information that would enable them to make informed decisions about the difficult trade-offs that people need to make between location and land consumption, and generally should not have the authority to make these types of decisions. 47. I support policies in the NPS-UD that will constrain local authorities in their ability to impose rules and standards controlling the design of homes, their private open space, or other facets of internal amenity over and above the Building Act and related Regulations, in an effort to open up opportunities for alternative affordable housing at a range of price points.

### Clause
**Which proposed option could best contribute to achieving quality urban environments?**

**Position**  
Option 1: removing the ability for local authorities to regulate the requisite number of car parks

**Notes**  
I support Option 1, but it needs to be made clearer that this relates to parking associated with specific land uses, and not non-accessory parking (which is a commercial activity of its own, e.g. parking buildings or lots for commuters).

### Clause
**What would be the impact of removing car park minimums in just high- and medium- density, commercial, residential and mixed use areas, compared with all areas of a major urban centre?**

**Notes**  
Inappropriate market intervention. This would result in absurdities, such as one site located within a mixed-use area being developed with apartments and not require any parking, and the immediately adjacent site being low density residential with a single house and requiring parking. Car park minimums should be removed altogether. The market is best placed to provide for a mix of housing that includes parking, and excludes parking, in a variety of locations, and this benefits consumers overall.

### Clause
**How would the 18 month implementation timeframe impact on your planning processes?**

**Notes**  
This timeframe seems too long, I recommend that it is reduced to no greater than 12 months.

### Clause
**What support should be considered to assist local authorities when removing the requirement to provide car parking to ensure the ongoing management of car parking resources?**

**Notes**  
N/A

### Clause
**Question 11. Do you think that central government should consider more directive intervention in local authority plans?**

**Position**  
Yes

**Notes**  
See my supporting statement that explores this theme in detail. Broadly remove planning barriers to intensification from residential, mixed-use and centre zones, regardless of their location. This will make district plans more agile as land pricing increases and commuting speeds increase as transport infrastructure is upgraded. I do not support plan makers prescribing where density should locate. g. Require coordinated infrastructure provision and release of land for residential or business purposes that maximises value of land and supports the densities created by markets.

### Clause
**Which rules (or types of rules) are unnecessarily constraining urban development?**

**Notes**  
See my supporting statement that explores this theme in detail. In short, any rules or standards that have the effect of constraining developable floor space. I note the example on page 44 of the consultation paper that suggests that the Auckland Unitary Plan provides for more than four units in particular zones to be non-notified if they comply with key development
controls and alternative height provisions for terrace housing. These types of rules are mostly never taken advantage of because most of these projects require resource consent for other activities, such as earthworks, relocation of power poles, and street tree removal/relocation. As such, the majority of these projects are subject to potential notification, despite there being a plan intent that they should not be (this is due to the case law principle of 'bundling' different activity types in the plan). What I write to you about is your existing regulation making power under section 360H(1) of the RMA. You have the power to prescribe classes and types of activities that do not require public or limited notification. For example, you could prescribe that all activities ancillary to the construction of housing is a prescribed activity – immediately allowing Councils across New Zealand to jump straight to decision making on resource consent applications. Contrary to what seems to be a popular opinion, I find that the Resource Management Act ("RMA") is actually designed to be complimentary to markets, on the proviso that clear negative externalities are avoided, remedied or mitigated. The RMA does not require local authorities to zone land for specific activities or uses, and through s.32 leaves the door open to a wide array of financial and market-based instruments, many non-regulatory and often more agile. However insofar as the RMA applies at a district level, plans have to date continued with the status quo that is known best – the use of rules and methods from plans of old that are often arbitrary and certainly not complimentary to the functioning of land markets. The National Planning Standards have unfortunately now entrenched the use of zoning as the key land use designation tool in New Zealand. The best example of this is the underlying land rationing that sits behind the Auckland Unitary Plan’s ("AUP") zoning pattern – height and density can only occur where prescribed, and this prescription is based on a theoretical or possibly idealistic proposition that there is an approximately equal market for high-density living in every identified centre and passenger transport route. I am unaware of any analysis that sought to substantiate this or otherwise match the zones to where in Auckland there was or could be real-world market interest for intensification.

Figure 1: The dark orange represents the AUP Terrace Housing and Apartment Building Zone in Mangere, Auckland. This zone is used here because the land is adjacent a centre. Whether the market will ever take the plan up on its 'offer' to allow high density living here is yet to be seen or quantified through any analysis. 9. Another simple example – and I am sure the practitioners serving on the independent advisory panel will know of many more – is the building height in relation to boundary standard that applies to select areas of the Auckland CBD. The background to the standard states: The indicator system is a very flexible and relatively simple system which has been applied in previous plans to site boundaries adjoining residential and open space zones... The Unitary Plan system is derived from, but not identical to, the system used in British Standard Code of Practice C.P.3 - a standard dating back to 1949. 10. This standard is designed with the intent of ensuring that a room with a window in an existing building facing a new development will receive adequate daylight, through being able to see a minimum-sized patch of sky from that point over or around the new building. It is of course worth noting that in 1949 there was no technological means of constructing buildings in the way that is now possible, including height, structural requirements in walls (the proportion of windows that can be accommodated), and the provision of warmth and air circulation within buildings. When buildings lacked insulation, lacked moisture control, and had thin-glass windows that could not retain warm air, then a mandated access to natural air and the sun was in a different order of importance than is the case today. 11. What is also striking about the use of this standard is that it is based on a system derived 70 years ago, in another country, with different weather and levels of natural light. It is a major shortcoming that there has never been any specific New Zealand based research into what built form controls might best suit specific performance outcomes. Secondly, it is based on a debatable premise that occupants of buildings need to see a patch of the sky out of every window. Not only does this conflict with the minimum daylighting requirements of the New Zealand Building Code, but it is based on no obvious quantitative science. This standard continues to impact on building form and density in the Auckland CBD even today One thing that this should teach us is that we must develop a healthy scepticism that most district plan rules are based on norms whose rationale is seldom challenged and use controls imposed by local authorities in New Zealand have arguably had a more widespread impact on the lives of New Zealanders than any other regulation, through making housing more expensive and restricting the vertical and horizontal growth of our cities. The costs and benefits of existing and proposed urban regulations must be evaluated, and commend the consultation paper for exploring the development of a consistent framework that will guide authorities in undertaking this analysis. 14. It will seem obvious to most that urban land prices tend to decrease as one gets further away from a city centre. When land prices are high, households and businesses tend to consume less land, and as a consequence, there should be increased height and floor space, and increased population density. 15. Unfortunately, the objective of most district plan rules are to limit densities. For Auckland, this is most evident in inner city suburbs recognised for their “special character” and "high aesthetic value". This is a trade-off that we have made either consciously for political purposes, or ignorantly - that land use and floor space in select areas should be minimised or altogether constrained, despite the obvious economic signs through land pricing that these areas are underdeveloped, and are consequently not a sustainable use of urban land as a resource, which is fundamentally in conflict with the purpose in s.5 of the RMA. These suburbs are desirable and expensive not only due to their proximity to water or their leafy green street trees, but because of their location within the spatial extent of the labour market. A more sober appraisal would also suggest that their popularity also stems in part from their exclusivity, and the associated social status that can be derived from living in such a spatially inefficient manner. 16. Planners see land prices as the main obstacle to affordability however if the highest and best use of land is enabled at all times, rather than being constrained based on the design norms of planners, affordable housing would ensue. There is no need for planning intervention to initiate land use change if markets are allowed to function as intended. You would be hard pressed to find a district plan – and its underpinning s.32 analysis – that mentions real estate markets, land prices, transportation costs, or basic supply and demand concepts, nor would many planners understand the relevance of these. Most district plans simply prescribe specific densities in various locations with no correlation at all to market laws of supply and demand for land and floor space. My examples here are Auckland based however I expect are similarly true for other cities in New Zealand. 18. The AUP was sold as an enabler of development, with the ‘removal’ of density restrictions from most urban zones. The Independent Hearings Panel concluded that there should be no need for affordable housing rules given this design. They also recommended the removal of minimum dwelling sizes, though the Council made a decision to not accept this recommendation. There is little disagreement among planners in Auckland that the AUP has unlocked infill development that was not seen when legacy plans were in effect. However, the suggestion that density restrictions have been removed is a misconception. They have simply been masked through layers of rules and standards that prescribe bulk and form throughout the city’s varying zones. 19. The combination of building coverage and maximum height standards will typically limit the developable floor space for a site. While an applicant could apply to infringe these standards, they ultimately still set a benchmark for what is expected on the ground. Compliance with the bulk and location standards has been and remains a
critical objective for most developers given the likelihood of non-notification. That there is a consent opportunity to exceed the standards is not of itself indicative of a flexible or market-friendly plan. 20. For example, a 600m2 site located within the Residential – Mixed Housing Suburban Zone can accommodate a building height maximum of 9 metres, and a building coverage maximum of 40 per cent. 21. Assuming that the 9 metre maximum height translates to two storeys, this site has maximum developable floor area of 480m2, which is equal to a Floor Area Ratio (“FAR”) of 0.8:1. 22. Let us consider the same site located within the Residential – Mixed Housing Urban Zone, which provides for a building height maximum of 11 metres, and a building coverage maximum of 45 per cent. 23. Assuming that the 11 metre maximum height translates to three storeys, the site has maximum developable floor area of 810m2, which is equal to a FAR of 1.35:1. 24. Regardless of whether FAR values are transparent, the land use rules in most New Zealand cities are prescribing them through bulk and location standards. In my opinion, limiting land efficiency purely to achieve an aesthetic built form character outcome, or worse, to ensure that all buildings within a neighbourhood reflect an arbitrary uniformity, reflects short-term and locally populist decision making. 25. I consider that more objective and strategically informed decisions are required given the costs of poor planning decisions (sprawl) and the effect that this has on our national productivity and urban mobility. The NPS-UD must set out to achieve this as an outcome in our national interest. In most of our cities, FAR and building height controls mean that the height and floor space of buildings are constrained at much lower levels than market demand would suggest. In very high value areas, most buildings are likely to make full use of the limited FAR and height that are available to them. I know from experience that this occurs in the Auckland CBD, which has FAR limits that have not been increased in nearly 20 years. Developers often want to propose taller buildings with more floor space than limits allow, which defaults to a non-complying activity status. This is why in cities like Auckland, you often see very unattractive buildings that are rectangular and look like blocks – they have simply been built out to maximise every inch of space available, but still less than what would have been built if the rules provided for more. Many of the buildings on Hobson Street and Nelson Street in the Auckland CBD are visually unattractive. While their appearance could be attributed to the absence of any district plan urban design criteria at the time of their construction, their ultimate squat shape and form is actually a result of limits prescribed by maximum height and FAR rules. More attractive towers are constructed where height and FAR limits are either absent, or exceed that required by a developer to profit from floor space generation in proportion to land value. Singapore is a known exemplar of tall well-designed buildings, and that jurisdiction also happens to have a planning system that provides a fixed FAR in the context of quite substantial height limits – though noting that their planning system is remarkably agile, and the government monitors changes to the market and land pricing in real time, and their planning system responds to these externalities as required. Eventually plan makers may decide to loosen FAR and height constraints, and developers will then take up the newly permitted building envelope. This gives the illusion of causality between the new land use rules and the taller building, and we then conclude that the resultant bulk and form was a design decision, rather than one that is actually purely market based where the earlier FAR and height restrictions were simply constraining provision of floor space. We need to recognise that planning instruments in New Zealand have not to date been agile enough to recognise or provide for changes of this nature. The NPS-UD must provide for this agility, by requiring immediate changes to district plans to facilitate growth. 32. Note that the reverse is also true, in that simply zoning for higher levels of FAR and building height will not translate to that floor space being provided. If the ratio between land price and construction cost is low, there will be no reason to substitute capital for land. 33. For example, the panel should consider how the policies in the NPS-UD could be worded to resolve absurdities such as rules mandating a 50 metre maximum height at the periphery of the Auckland CBD and a maximum FAR of 6:1 (high value land under significant development pressure) while allowing for a 72.5 metre maximum height and no maximum FAR in the Manukau and Albany Centres (land occupied by bulky good retailers and fast food restaurants). Another example is the Residential - Terrace Housing and Apartment Building Zone in Auckland, which provides for buildings of between five to six storeys. However, much of this zone is located in areas of lower land value, including in suburbs like Mangere, Point England and Onehunga. 35. Auckland Council’s Chief Economist has found that the maximisation of floor space in these areas has been suboptimal, with some developers preferring instead to construct two to three storey detached homes. Far from reflecting a reluctance of developers to align with the spirit of the AUP, it is in my opinion indicative that these zones were not allocated based on any informed market thinking, but rather on ideology and hierarchy based on the location of centres, and being in lower socio-economic suburbs which had less vocal community opposition at the plan making stage. 36. Again, this shows that plan makers have got it wrong, and have tried to design where they believe density should be provided (e.g. around transit nodes and arterial roads) rather than simply allowing the market to decide. I doubt we will see tall buildings in Mangere in the near future, despite the AUP providing for them – the value of the land is simply not conducive to providing for such development, nor are the socio-economics. Areas in blue predominantly provide for no more than 1 dwelling per site. These sites have high land value and if subject to normal market forces, would provide for significant housing supply, given proximity to jobs within an hour’s commute. Areas in green can provide for terrace housing and apartment buildings (though not at an unlimited density due to bulk and location standard constraints). These areas have lower land value than those in blue. Historic Heritage vs Special Character 37. There are quantifiable economic and cultural justifications for preserving high-quality historic buildings against market forces, and I would not support a final NPS-UD that directs liberal change to district plan historic heritage rules. However, the same protections should not be afforded to areas with “special character”, particularly where these areas occupy significant high value land resources proximate to jobs. While I am only familiar with the Auckland context in this regard, I presume there are similar “special character” controls in other major New Zealand cities. This is in my opinion a unquestionably justified form of control that promotes an aesthetic preference, in the absence of actual historic heritage justification to protect individual buildings, leading to unaccounted for and unacknowledged urban form costs (displaced and less efficient settlement and travel patterns). 38. I consider that this is an example (there are many) of how the maintenance and enhancement of amenity values in s.7 of the RMA gets substantially more recognition in plan making than the other matters in s.7, and many practical aspects of s.6 and s.5. I urge that the NPS-UD includes consideration of how the creation of new amenity values (a form of enhancement based on achieving a specific policy vision) could be better promoted where substantial urban growth or change is expected. The high price of land, together with district plan restrictions on FAR and dwelling sizes ultimately exclude the poor as they are unable to afford the minimum standard. This reduces the mobility of lower income families towards areas of high job concentration, and their participation in the labour market is affected. While it may seem like a desirable objective to require all homes to have a minimum standard of living, ultimately if the poor cannot afford it, they will simply end up in worse accommodation than what could be provided for by the market legally if these restrictions did not exist. Planners ultimately lack the information that would enable them to make informed decisions about the difficult trade-offs that people need to make between location and land consumption, and
generally should not have the authority to make these types of decisions. I support policies in the NPS-UD that will constrain local authorities in their ability to impose rules and standards controlling the design of homes, their private open space, or other facets of internal amenity over and above the Building Act and related Regulations, in an effort to open up opportunities for alternative affordable housing at a range of price points. In addition to those recommendations made in my answers to the consultation document questions, I recommend that the NPS-UD should include policies that provide for the following Direct a reversion to the assumption under the RMA that all district land use activities are permitted unless a rule says otherwise. This would require local authorities to remove rules that prescribe an activity status to activities not otherwise provided for. Direct the removal of plan methods controlling the design of homes, such as prescribed minimum dwelling sizes, daylighting and outlook, and outdoor living spaces acknowledge that there may be other factors to consider as part of the some of these recommendations, and final solutions would require detailed investigation. For example Plan rules that recognise and provide for matters of national importance under 65. of the RMA should be retained and not subject to influence by the NPS-UD.

Clause
Can you identify provisions that are enabling higher density urban development in local authority plans that could be provided for either nationally or in particular zones or areas?
Notes
No, because most zones still include limiting provisions. See my supporting statement that explores this theme in detail.

Clause
Should a minimum level of development for an individual site be provided across urban areas (for example, making up to three storeys of development a permitted activity across all residential zones)?
Notes
I am not sure that I understand the question. I do not support the use of mandated minimums for development as this distorts the market and creates the risk of no development occurring where such rules are applied to areas where there is insufficient demand to meet the minimum. However I would support rules that would increase the threshold for permitted activity development generally.

Clause
Given the potential interactions with the range of rules that may exist within any given zone, how could the intent of more directive approaches be achieved?
Notes
See my supporting statement that explores this theme in detail. Direction needs to be given to local authorities to remove rules that put a cap on floor space (whether these rules are obvious or hidden) and that mandate design associated with internal amenity.

Clause
Question 12. Do you support requirements for all urban environments to assess demand and supply of development capacity, and monitor a range of market indicators? Why/why not?
Position
Yes
Notes
See my supporting statement that explores this theme in detail. I am not familiar with any district plan that even recognises the existence of markets, let along provides for their operation.

Clause
Question 13. Do you support inclusion of policies to improve how local government works with iwi, hapū and whānau to reflect their values and interests in urban planning? Why/why not?
Position
Yes
Notes
I am supportive of these policies being included.

Clause
Do you think the proposals are an appropriate way to ensure urban development occurs in a way that takes into account iwi and hapū concerns?
Notes
Yes, subject to the recommendations I have made above and in my supporting statement. I note that Maori are overrepresented in terms of poverty and poor rural to urban mobility, and our current planning system is failing their interests.

Clause
How do you think local authorities should be directed to engage with Māori who do not hold mana whenua over the urban environment they are currently living in?
Notes
No comment.
Clause
What impacts do you think the proposed NPS will have on iwi, hapū and Māori?

Notes
Subject to the recommendations I have made above and in my supporting statement, I consider that the NPS would in the long-term have the effect of providing Maori with a greater range of housing choices in a variety of locations, at different price points.

Clause
Question 14. Do you support amendments to existing NPS-UDC 2016 policies to include working with providers of development and other infrastructure, and local authorities cooperating to work with iwi/hapū?

Position
Yes

Notes

Clause
Question 15. What impact will the proposed timing for implementation of policies have?

Notes
We cannot move quick enough on ensuring the implementation of these policies, particularly in high-growth urban areas. The policies required within 18 months of gazettal should be brought down to no more than 12 months.

Clause
Question 16. What kind of guidance or support do you think would help with the successful implementation of the proposed NPS-UD?

Notes
MfE should establish a mandatory framework for cost benefit assessments to be undertaken by local authorities. These must be undertaken in consultation with suitably qualified urban economists, with the objective being to ensure restrictions on development are properly understood and justified other than on the basis of local aesthetic preferences. MfE should also produce an implementation guide for consent authorities, and a guidance document for the wider community to read and understand the changes that the NPS will produce in our cities.

Clause
Question 17. Do you think there are potential areas of tension or confusion between any of these proposals and other national direction? If so, please identify these areas below and include any suggestions you have for addressing these issues.

Position
Yes

Notes
There is potential conflict with NPS-Elite Soils. While at first glance it appears to be a worthy objective to protect rural production land that contains high quality soil, if such land is priced at a point in the market where it is more suitable for urban development as opposed to rural production, then we are perpetuating the inevitable. Sprawl into rural areas is often the result of market dysfunction in the remainder of the urban environment, i.e. lack of development capacity associated with constraints on infill. Very highly productive land is likely to have higher value per m2 than urban so market forces should mitigate these effects in most cases.

Clause
Question 18. Do you think a national planning standard is needed to support the consistent implementation of proposals in this document? If so, please state which specific provisions you think could be delivered effectively using a national planning standard?

Position
Somewhat

Notes
Most of my recommendations have been to direct the removal of plan methods that inhibit urban floor space generation, which is not something that needs to be provided for through a national planning standard. National planning standards could however be used to provide example alternative plan methods that could be used to manage the effects of intensification while not putting a cap on floor space.

Clause
Question A1. Do you support the changes to the HBA policies overall? Are there specific proposals you do or do not support? What changes would you suggest?

Position
Yes

Notes

Clause
Question A4. How could these policies place a greater emphasis on ensuring enough development capacity at affordable prices?

Notes
Affordable pricing would be the result of removing market imbalances, whether they are planning based, or other externalities such as taxation, cost of construction etc. Affordably priced housing capacity is difficult to provide for through policies. This NPS is a good stating point for providing for development capacity overall through removing barriers to developers maximising floor space, and removing mandated internal amenity design requirements. This should in turn help to increase choice to consumers.

Clause
Question A5. Do you support the approach of targeting the HBA requirements only to major urban centres? Why/why not?

Position
Somewhat

Notes

Clause
Submission context

Notes
I write to you as an urban planner – Australian educated, but having lived and made my home in New Zealand over the past five years. I work as an RMA practitioner in Auckland. I worked in Adelaide for some years prior. Through my career in local government, I have developed an appreciation for the efforts of both regulatory staff, but also the struggles of developers who are working to try to provide for more housing, particularly in growth cities like Auckland. The RMA is convoluted, not user friendly, and overdue for reform. I acknowledge the government's efforts this year to consult broadly on policy reforms to increase housing supply, including reducing barriers to development, while maintaining the quality of our natural environment. This includes the high level RMA review that you have initiated, and the now consultation on the NPS-UD.

Clause
Additional information provided

Notes
I am hopeful that your advisors at MfE or other RMA practitioners have already brought to your attention this power, and that there is countervailing reason why you have chosen to not exercise it.
Planning for successful cities – our proposal, your views –
National Policy Statement on Urban Development

Supporting Statement

Name: Daniel Kinnoch
Email: [redacted]
Phone: [redacted]
Date: 29 September 2019

To the Independent Technical Advisory Panel:

Introduction

1. Thank you for providing the opportunity to make a submission on the proposed National Policy Statement on Urban Development (“NPS-UD”).

2. I am an urban planner – Australian educated, but having lived and made my home in New Zealand over the past five years. I work as an RMA practitioner in Auckland. I worked in Adelaide for some years prior.

3. I support the general intent of the NPS-UD and have provided what I hope are helpful responses to the questions set out in the consultation document. This document provides context to my answers, and includes my professional views on the state of planning in New Zealand, its relationship to markets, and how this association has influenced the growth of our cities and standards of living for New Zealanders.

Relationship between Urban Planning and Urban Economics

4. Urban planning has an immeasurable but significant impact on the ground in cities throughout the world. The industry frequently uses qualitative language to describe idealistic objectives, words like “sustainable,” “liveable,” and “resilient” – often with no link to measurable outcomes or a meaningful attempt to spell out what the words mean.

5. The National Policy Statement on Urban Development Capacity (“NPS-UDC”) was introduced recognising that the local authorities managing our major cities need to actively consider urban economics – a quantitative science based on actual theories, models and empirical evidence. I agree that this has been lacking in many of the planning processes I have observed.

6. The hard truth for planners and planning systems the world over is that markets provide the indispensable mechanism for the development of cities. Administration and oversight without clear purpose and direction will in my experience often do little but create inefficiencies and waste. One example of how this can come about is when a planning document simply states that everything is important and does not prioritise the many hard decisions and trade-offs that need to be made. I am not familiar with any district plan in New Zealand that even
acknowledges the existence of markets and land values. My experience is that planning documents and rules frequently intervene in markets using regulation, with little or no understanding or analysis of the likely consequences of using such tools. This intervention often has irreversible effects on the natural environment through generating the phenomenon described in popular media as ‘sprawl’.

7. Contrary to what seems to be a popular opinion, I find that the Resource Management Act (“RMA”) is actually designed to be complimentary to markets, on the proviso that clear negative externalities are avoided, remedied or mitigated. The RMA does not require local authorities to zone land for specific activities or uses, and through s.32 leaves the door open to a wide array of financial and market-based instruments, many non-regulatory and often more agile. However insofar as the RMA applies at a district level, plans have to date continued with the status quo that is known best – the use of rules and methods from plans of old that are often arbitrary and certainly not complimentary to the functioning of land markets. The National Planning Standards have unfortunately now entrenched the use of zoning as the key land use designation tool in New Zealand.

8. The best example of this is the underlying land rationing that sits behind the Auckland Unitary Plan’s (“AUP”) zoning pattern – height and density can only occur where prescribed, and this prescription is based on a theoretical or possibly idealistic proposition that there is an approximately equal market for high-density living in every identified centre and passenger transport route. I am unaware of any analysis that sought to substantiate this or otherwise match the zones to where in Auckland there was or could be real-world market interest for intensification.

9. Another simple example – and I am sure the practitioners serving on the independent advisory panel will know of many more – is the building height in relation to boundary standard that applies to select areas of the Auckland CBD. The background to the standard states:

The indicator system is a very flexible and relatively simple system which has been applied in previous plans to site boundaries adjoining residential and open space zones... The Unitary Plan system is derived from, but not identical to, the system used in British Standard Code of Practice C.P.3 - a standard dating back to 1949.
10. This standard is designed with the intent of ensuring that a room with a window in an existing building facing a new development will receive adequate daylight, through being able to see a minimum-sized patch of sky from that point over or around the new building. It is of course worth noting that in 1949 there was no technological means of constructing buildings in the way that is now possible, including height, structural requirements in walls (the proportion of windows that can be accommodated), and the provision of warmth and air circulation within buildings. When buildings lacked insulation, lacked moisture control, and had thin-glass windows that could not retain warm air, then a mandated access to natural air and the sun was in a different order of importance than is the case today.

11. What is also striking about the use of this standard is that it is based on a system derived 70 years ago, in another country, with different weather and levels of natural light. It is a major shortcoming that there has never been any specific New Zealand based research into what built form controls might best suit specific performance outcomes. Secondly, it is based on a debatable premise that occupants of buildings need to see a patch of the sky out of every window. Not only does this conflict with the minimum daylighting requirements of the New Zealand Building Code, but it is based on no obvious quantitative science. This standard continues to impact on building form and density in the Auckland CBD even today.

12. One thing that this should teach us is that we must develop a healthy scepticism that most district plan rules are based on norms whose rationale is seldom challenged.

**Regulatory Impact on Land Pricing and Housing Supply**

13. Land use controls imposed by local authorities in New Zealand have arguably had a more widespread impact on the lives of New Zealanders than any other regulation, through making housing more expensive and restricting the vertical and horizontal growth of our cities. The costs and benefits of existing and proposed urban regulations must be evaluated, and I commend the consultation paper for exploring the development of a consistent framework that will guide authorities in undertaking this analysis.

14. It will seem obvious to most that urban land prices tend to decrease as one gets further away from a city centre. When land prices are high, households and businesses tend to consume less land, and as a consequence, there should be increased height and floor space, and increased population density.

15. Unfortunately, the objective of most district plan rules are to limit densities. For Auckland, this is most evident in inner city suburbs recognised for their “special character” and “high aesthetic value”. This is a trade-off that we have made either consciously for political purposes, or ignorantly – that land use and floor space in select areas should be minimised or altogether constrained, despite the obvious economic signs through land pricing that these areas are underdeveloped, and are consequently not a sustainable use of urban land as a resource, which is fundamentally in conflict with the purpose in s.5 of the RMA. These suburbs are desirable and expensive not only due to their proximity to water or their leafy green street trees, but because of their location within the spatial extent of the labour market. A more sober appraisal would also suggest that their popularity also stems in part from their exclusivity, and the associated social status that can be derived from living in such a spatially inefficient manner.
16. Planners see land prices as the main obstacle to affordability however if the highest and best use of land is enabled at all times, rather than being constrained based on the design norms of planners, affordable housing would ensue. There is no need for planning intervention to initiate land use change if markets are allowed to function as intended. You would be hard pressed to find a district plan – and its underpinning s.32 analysis – that mentions real estate markets, land prices, transportation costs, or basic supply and demand concepts, nor would many planners understand the relevance of these. Most district plans simply prescribe specific densities in various locations with no correlation at all to market laws of supply and demand for land and floor space.

**Seen and Unseen Controls on Density and Floor Space**

17. My examples here are Auckland based however I expect are similarly true for other cities in New Zealand.

18. The AUP was sold as an enabler of development, with the ‘removal’ of density restrictions from most urban zones. The Independent Hearings Panel concluded that there should be no need for affordable housing rules given this design. They also recommended the removal of minimum dwelling sizes, though the Council made a decision to not accept this recommendation. There is little disagreement among planners in Auckland that the AUP has unlocked infill development that was not seen when legacy plans were in effect. However, the suggestion that density restrictions have been removed is a misconception. They have simply been masked through layers of rules and standards that prescribe bulk and form throughout the city’s varying zones.

19. The combination of building coverage and maximum height standards will typically limit the developable floor space for a site. While an applicant could apply to infringe these standards, they ultimately still set a benchmark for what is expected on the ground. Compliance with the bulk and location standards has been and remains a critical objective for most developers given the likelihood of non-notification. That there is a consent opportunity to exceed the standards is not of itself indicative of a flexible or market-friendly plan.

20. For example, a 600m² site located within the Residential – Mixed Housing Suburban Zone can accommodate a building height maximum of 9 metres, and a building coverage maximum of 40 per cent.

21. Assuming that the 9 metre maximum height translates to two storeys, this site has maximum developable floor area of 480m², which is equal to a Floor Area Ratio (“FAR”) of 0.8:1.

22. Let us consider the same site located within the Residential – Mixed Housing Urban Zone, which provides for a building height maximum of 11 metres, and a building coverage maximum of 45 per cent.

23. Assuming that the 11 metre maximum height translates to three storeys, the site has maximum developable floor area of 810m², which is equal to a FAR of 1.35:1.

24. Regardless of whether FAR values are transparent, the land use rules in most New Zealand cities are prescribing them through bulk and location standards. In my opinion, limiting land efficiency purely to achieve an aesthetic built form character outcome, or worse, to ensure
that all buildings within a neighbourhood reflect an arbitrary uniformity, reflects short-term
and locally populist decision making.

25. I consider that more objective and strategically informed decisions are required given the
costs of poor planning decisions (sprawl) and the effect that this has on our national
productivity and urban mobility. The NPS-UD must set out to achieve this as an outcome in
our national interest.

Building Height and Floor Area

26. I have observed in New Zealand that there is an almost ideological opposition to tall buildings
because of the assumption that their existence will generate adverse effects. My experience
is that in most cases the objection is based on the following fears:

   a. Fear from existing residents that new residents might derive a view or amenity
      advantage that may lower the value of the existing residents’ properties;

   b. Fear from existing residents that they may lose a view or outlook, even if that view or
      outlook is based on looking across other people’s land; and/or

   c. A moral principle that existing residents invested based on what they understood at
      the time, and that it would be wrong to change the system while they still wish to
      enjoy things the way they are.

27. Yes, tall buildings can cast shadows and often (where car parks are required) generate traffic
congestion, and their proximity to other buildings can result in overlooking. But they can also
generate significant positive effects in terms of housing supply, and providing for the efficient
use of existing urban land resources. They also offer the best means of accommodating
populations where there are services, transport options, and amenities that do not require
mass use of private motor vehicles.

28. The NPS-UD consultation paper acknowledges that we are often sacrificing the future amenity
values of many new occupants over those of the few already living in the area. The final
version of the NPS-UD must include policies that recognise that current urban height limits are
often arbitrary, are resulting in an under-development of land, and should in most cases be
removed unless proven necessary under cost benefit analysis.

29. In most of our cities, FAR and building height controls mean that the height and floor space of
buildings are constrained at much lower levels than market demand would suggest. In very
high value areas, most buildings are likely to make full use of the limited FAR and height that
are available to them. I know from experience that this occurs in the Auckland CBD, which has
FAR limits that have not been increased in nearly 20 years. Developers often want to propose
taller buildings with more floor space than limits allow, which defaults to a non-complying
activity status. This is why in cities like Auckland, you often see very unattractive buildings that
are rectangular and look like blocks – they have simply been built out to maximise every inch
of space available, but still less than what would have been built if the rules provided for
more.
30. More attractive towers are constructed where height and FAR limits are either absent, or exceed that required by a developer to profit from floor space generation in proportion to land value. Singapore is a known exemplar of tall well-designed buildings, and that jurisdiction also happens to have a planning system that provides a fixed FAR in the context of quite substantial height limits – though noting that their planning system is remarkably agile, and the government monitors changes to the market and land pricing in real time, and their planning system responds to these externalities as required.

31. Eventually plan makers may decide to loosen FAR and height constraints, and developers will then take up the newly permitted building envelope. This gives the illusion of causality between the new land use rules and the taller building, and we then conclude that the resultant bulk and form was a design decision, rather than one that is actually purely market based where the earlier FAR and height restrictions were simply constraining provision of floor space. We need to recognise that planning instruments in New Zealand have not to date been
agile enough to recognise or provide for these changes. The NPS-UD must provide for this agility, by requiring immediate changes to district plans to facilitate growth.

32. Note that the reverse is also true, in that simply zoning for higher levels of FAR and building height will not translate to that floor space being provided. If the ratio between land price and construction cost is low, there will be no reason to substitute capital for land.

33. For example, the panel should consider how the policies in the NPS-UD could be worded to resolve absurdities such as rules mandating a 50 metre maximum height at the periphery of the Auckland CBD and a maximum FAR of 6:1 (high value land under significant development pressure) while allowing for a 72.5 metre maximum height and no maximum FAR in the Manukau and Albany Centres (land occupied by bulky good retailers and fast food restaurants).

34. Another example is the Residential - Terrace Housing and Apartment Building Zone in Auckland, which provides for buildings of between five to six storeys. However, much of this zone is located in areas of lower land value, including in suburbs like Mangere, Point England and Onehunga.

35. Auckland Council’s Chief Economist has found that the maximisation of floor space in these areas has been suboptimal, with some developers preferring instead to construct two to three storey detached homes. Far from this reflecting a reluctance of developers to align with the spirit of the AUP, it is in my opinion indicative that these zones were not allocated based on any informed market thinking, but rather on ideology and hierarchy based on the location of centres, and being in lower socio-economic suburbs which had less vocal community opposition at the plan making stage.

36. Again, this shows that plan makers have got it wrong, and have tried to design where they believe density should be provided (e.g. around transit nodes and arterial roads) rather than simply allowing the market to decide. I doubt we will see tall buildings in Mangere in the near future, despite the AUP providing for them – the value of the land is simply not conducive to providing for such development, nor are the socio-economics.
Historic Heritage vs Special Character

37. There are quantifiable economic and cultural justifications for preserving high-quality historic buildings against market forces, and I would not support a final NPS-UD that directs liberal change to district plan historic heritage rules. However, the same protections should not be afforded to areas with “special character”, particularly where these areas occupy significant high value land resources proximate to jobs. While I am only familiar with the Auckland context in this regard, I presume there are similar “special character” controls in other major New Zealand cities. This is in my opinion a questionably justified form of control that promotes an aesthetic preference, in the absence of actual historic heritage justification to protect individual buildings, leading to unaccounted for and unacknowledged urban form costs (displaced and less efficient settlement and travel patterns).

38. I consider that this is an example (there are many) of how the maintenance and enhancement of amenity values in s.7 of the RMA gets substantially more recognition in plan making than the other matters in s.7, and many practical aspects of s.6 and s.5. I urge that the NPS-UD includes consideration of how the creation of new amenity values (a form of enhancement based on achieving a specific policy vision) could be better promoted where substantial urban growth or change is expected.

Design Innovation

39. Markets produce a great variety of designs. Competition provides for innovation in technology and design. Planning rules however often attempt to provide for uniformity, which ultimately hampers choice being provided to consumers. Why is it that side yard setbacks are required in most residential zones, whereas some cities in Australia allow new homes to be constructed abutting boundaries up to a certain length? The perception of what is offensive to private amenity differs throughout the world.
40. I would strongly support policies in the final NPS-UD that direct local authorities to prioritise plan policies on maintenance and enhancement of public amenity, as opposed to existing private amenity, noting that the latter changes over time and tends to prioritise the status quo.

Informal Housing and Minimum Dwelling Size Standards

41. In advanced economies like New Zealand, the informal housing sector is prevalent through the form of illegal conversions or additions to new or existing homes.

42. My experience in Auckland is that there are likely thousands of homes across the city that house illegal second units that cannot comply with land use rules. The people living in these units often have no choice due to their financial situation, but suffer consequences such as being subject to non-formal tenancy agreements, and being unable to secure insurance. Development contributions are not being paid by the developers who construct these units. The growth of the informal sector in both developed and undeveloped countries has the same root cause: poorly conceived land use rules that do not take into account the income of poor households.

43. Despite the potential legal consequence, the people living in these units often have a higher standard of living than the alternative, which could be poor quality rental homes, old state housing stock, or worse, homelessness. However, the units themselves cannot be legitimised because plan standards will often mandate a requirement for car parking – even if the occupants cannot afford a car – and private open space, despite their being abundant public open space throughout most New Zealand cities.

44. Planners and plan-makers across the country will decry the high cost of housing, but will at the same time decry the relaxation of internal amenity standards that would ultimately make housing more affordable. We want to provide for more housing without accepting that the market is best placed to provide it, in the form and location that is demanded by consumers. The poor and low-income earners should be entitled to make the trade-off that they desire between floor space consumption and location.

45. The high price of land, together with district plan restrictions on FAR and dwelling sizes ultimately exclude the poor as they are unable to afford the minimum standard. This reduces the mobility of lower income families towards areas of high job concentration, and their participation in the labour market is affected.

46. While it may seem like a desirable objective to require all homes to have a minimum standard of living, ultimately if the poor cannot afford it, they will simply end up in worse accommodation than what could be provided for by the market legally if these restrictions did not exist. Planners ultimately lack the information that would enable them to make informed decisions about the difficult trade-offs that people need to make between location and land consumption, and generally should not have the authority to make these types of decisions.

47. I support policies in the NPS-UD that will constrain local authorities in their ability to impose rules and standards controlling the design of homes, their private open space, or other facets of internal amenity over and above the Building Act and related Regulations, in an effort to open up opportunities for alternative affordable housing at a range of price points.
48. In addition to those recommendations made in my answers to the consultation document questions, I recommend that the NPS-UD should include policies that provide for the following:

a. A requirement for consent authorities to undertake cost benefit analysis of new and existing district plan objectives, policies and rules that are not otherwise enabling of development. The Ministry for the Environment (MfE) should establish a mandatory framework for these assessments to be undertaken in consultation with suitably qualified urban economists, with the objective being to ensure restrictions on development are properly understood and justified other than on the basis of local aesthetic preferences.

b. Provide greater control to markets to provide for housing in locations deemed suitable based on changing land prices and infrastructure provision.

c. Direct a reversion to the assumption under the RMA that all district land use activities are permitted unless a rule says otherwise. This would require local authorities to remove rules that prescribe an activity status to activities not otherwise provided for.

d. Direct that plan methods that impose obvious, indirect or hidden control of floor space are removed. Markets and land pricing will ultimately dictate the ultimate conversion of land to floor space, and provide for the housing needed in our cities.

This does not need to lend itself to the complete removal of a need for resource consent, merely the adoption of rules that provide for increased flexibility and less prescription as to specific design outcomes. For example, height in relation to boundary standards could be replaced with a setback standard, and/or a requirement for windows above a certain height to not face boundaries or to be screened. This could be provided through assessment criteria rather than standards. The NPS-UD could be prescriptive as to the alternatives that could be used, or could allow each local authority to determine the methods they employ to provide for unlimited floor space, while managing negative externalities.

e. Direct the removal of plan methods controlling the design of homes, such as prescribed minimum dwelling sizes, daylighting and outlook, and outdoor living spaces.

f. Broadly remove planning barriers to intensification from residential, mixed-use and centre zones, regardless of their location. This will make district plans more agile as land pricing increases and commuting speeds increase as transport infrastructure is upgraded. I do not support plan makers prescribing where density should locate.

g. Require coordinated infrastructure provision and release of land for residential or business purposes that maximises value of land and supports the densities created by markets.

49. I acknowledge that there may be other factors to consider as part of the some of these recommendations, and final solutions would require detailed investigation. For example:
a. Some areas of cities may have proven infrastructural constraints that would otherwise constrain new development. These constraints must be able to be quantified objectively. Developers must be given an opportunity to contribute to or remedy any identified infrastructural deficit in exchange for being able to develop floor space.

b. Plan rules that recognise and provide for matters of national importance under s.6 of the RMA should be retained and not subject to influence by the NPS-UD.

50. I am available to speak with the panel regarding my submission if it would be helpful.

References


